



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 21, 1996

Mr. Scott Wall
City Manager
City of Hondo
1600 Avenue M
Hondo, Texas 78861

OR96-1506

Dear Mr. Wall:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 100594.

The City of Hondo (the "city") received a request for information concerning the termination of two police officers. You have submitted to this office for review records responsive to the request. You assert that the documents may be withheld in their entirety under section 552.102 of the Government Code, or alternatively, that the names of private citizens must be redacted before releasing the records.

The test to determine whether information is private and excepted from disclosure under common-law privacy provisions, which are encompassed in section 552.101 and section 552.102 of the Government Code, is whether the information is (1) highly intimate or embarrassing to a reasonable person and (2) of no legitimate public concern. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 930 (1977); *Hubert v. Harte-Hanks Texas Newspapers Inc.*, 652 S.W.2d 546 (Tex. App.-Austin 1983, writ ref'd n.r.e.). The records at issue relate to the job performance and work behavior of public servants. There is a legitimate public interest in how a public servant conducts himself while on-duty and how he performs his job functions. Open Records Decision Nos. 470 (1987) at 4 (public has legitimate interest in job performance of public employees); 423 (1984) at 2 (scope of public employee privacy is narrow). Thus, the records concerning the termination of the police officers may not be withheld in their entirety.

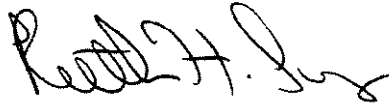
You have also asserted that the names of private citizens found in the records at issue should be withheld from disclosure. As there is a legitimate public interest in the information at issue, it is not protected from disclosure by common-law privacy. The records appear to identify one or more juvenile suspects, however, section 58.007 of the

Family Code, which addresses records of juvenile offenders, does not make confidential juvenile records maintained by law enforcement agencies. Open Records Decision No. 644 (1996) (enclosed). We also note that the names in the records at issue seem to be the type of information normally found on the front page of police incident or offense reports.¹ See generally *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). This type of information is generally considered public.

The information at issue also contains what appears to be home addresses of peace officers. As section 552.117 of the Government Code makes confidential the home addresses and home telephone numbers of peace officers, see Open Records Decision No. 532 (1989), this information may not be disclosed.²

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 100594

Enclosures: Submitted documents
Summary of Open Records Decision No. 127
Open Records Decision No. 644 (1996)

¹ We have included, for your information, a summary of the types of information that are generally considered to be public.

²For purposes of this decision, we assume the former city police officers are still peace officers for purposes of section 552.117. We note, however, that even if this is not the case, provisions of section 552.117 may still be applicable. Sections 552.117 and 552.024 also provide that a current or former public employee can opt to keep private his or her home address, home telephone number, social security number, and information that reveals whether that person has family members. Under these provisions, a governmental body must withhold the information if, as of the time of the request for records, the employee had elected to keep the information private. Open Records Decision Nos. 530 (1989) at 5, 482 (1987) at 4, 455 (1987).

cc: Mr. Reagon Clamon
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(w/o enclosures)